

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**RONALD WHITEHORN, on behalf of  
himself and other similarly situated,**

**CIVIL ACTION NO. 09-CV-1148 (LBS)**

**Plaintiff,**

**v.**

**WOLFGANG'S STEAKHOUSE, INC., ZMF  
RESTAURANTS, LLC d/b/a WOLFGANG'S  
STEAKHOUSE AT PARK AVENUE, WOLF  
AT TRIBECA, INC. d/b/a WOLFGANG'S  
STEAKHOUSE AT TRIBECA, PETER  
ZWEINER and WOLFGANG ZWEINER**

**Defendants.**

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**NOTICE OF PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION OF  
FLSA COLLECTIVE ACTION AND FOR COURT FACILITATION OF NOTICE**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and annexed materials, Plaintiff Ronald Whitehorn, on behalf of himself and all others similarly situated, by his undersigned attorneys, shall move the Court before the Honorable Leonard B. Sand, United States District Court, Southern District of New York, 500 Pearl Street, New York, NY 10007, on such day and time as counsel may be heard, for the following relief in this Fair Labor Standards Act ("FLSA") collection action:

(1) Conditional certification of the FLSA claim as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of all tipped employees who worked for Defendants in any Wolfgang's Steakhouse restaurant in New York between February 9, 2006 through October 18, 2009 ("Covered Employees");

(2) Court facilitated notice of this FLSA action to the Covered Employees in the form of Palmer Decl., Ex. A, which includes a consent form (opt-in form) as authorized by the FLSA (Palmer Decl., Ex. B).

(3) Production of the contact information, including social security numbers, email addresses, alternate phone numbers and addresses, and dates of employment for all Covered Employees; and

(4) Posting of the Notice, along with the consent forms, in conspicuous locations in Wolfgang's New York restaurants.

Dated: New York, New York  
October 18, 2010

Respectfully submitted,

/s/ Michael D. Palmer  
Michael D. Palmer (MP-5090)  
Matthew D. Kadushin (MK-1968)  
Charles Joseph (CJ-9442)  
Diane Hester (on the brief)  
JOSEPH, HERZFELD, HESTER &  
KIRSCHENBAUM LLP  
757 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017  
(212) 688-5640  
(212) 688-2548 (fax)

*Attorneys for Plaintiff, proposed collective  
action members and proposed class*